

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 07-210
Table of Allotments,)	RM-11399
FM Broadcast Stations.)	
(Butte Falls and Netarts, Oregon))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: October 8, 2008

Released: October 10, 2008

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* (“*Notice*”),¹ issued at the request of Oregon Radio Partners, LLC (“*Petitioner*”), proposing the allotment of Channel 290A at Butte Falls, Oregon, and the allotment of Channel 232C3 at Netarts, Oregon. *Petitioner* filed comments. No counterproposals or other comments were received in response to this *Notice*. For the reasons discussed below, we are amending the FM Table of Allotments, Section 73.202(b) of the Commission’s Rules,² by allotting Channel 290A at Butte Falls and Channel 232C3 at Netarts.

2. **Background.** The *Notice* proposed the allotment of Channel 290A at Butte Falls and Channel 232C3 at Netarts, as first local services. As stated in the *Notice*, to accommodate the Netarts allotment, Oregon Eagle, Inc., licensee of Station KTEL-FM, Channel 232C3, Tillamook, Oregon, has proposed the substitution of Channel 232C2 for Channel 232C3, the reallocation of Channel 232C2 from Tillamook to Government Camp, Oregon, and the modification of the Station KTEL-FM license to reflect the change (the “*KTEL-FM Application*”).³ To accommodate the channel substitution at Bend, Oregon, James D. McDaniel, the auction winner for Channel 225A at Butte Falls, has amended his construction permit application to specify Talent, Oregon.⁴ To ensure retention of a first local service in Butte Falls, *Petitioner* proposed the allotment of Channel 290A in that community.

3. **Discussion.** Accordingly, we are allotting Channel 290A at Butte Falls and Channel 232C3 at Netarts, as first local services. Channel 290A at Butte Falls can be allotted, consistent with the minimum distance separation requirements of the Commission’s Rules, at reference coordinates 42-36-19

¹ See *Butte Falls and Netarts, Oregon*, Notice of Proposed Rule Making, 22 FCC Rcd 17627 (MB 2007).

² 47 C.F.R. § 73.202(b).

³ See File No. BPH-20070125ADO. To accommodate the KTEL-FM Application, we issued two *Order to Show Cause* (“*OTSC*”) directed to the licensees of Station KXIX, Channel 231C0, Bend, Oregon and Station KRXF, Channel 224C2, Sunriver, Oregon. See *Letter to GCC Bend, LLC*, Ref. No. 1800B3-HC (MB May 23, 2007) (*OTSC* to Station KXIX licensee) and *Letter to Fields Pond Group*, Ref. No. 1800B3-HC (MB May 23, 2007) (*OTSC* to Station KRXF licensee). No responses were received. As such, the licensees of Stations KXIX and KRXF are deemed to have consented to the channel substitutions with respect to Channel 225C0 at Bend, Oregon for Station KXIX and Channel 231C2 at Sunriver, Oregon for Station KRXF, respectively. See 47 C.F.R. §1.87. See also *Circleville, Ohio*, Second Report and Order, 8 FCC 2d 159 (1967).

⁴ See File No. BNPH-20060310ACD.

NL and 122-24-38 WL with a site restriction of 14.7 kilometers (9.1 miles) northeast of Butte Falls. Moreover, Channel 232C3 can be allotted to Netarts, consistent with the minimum distance separation requirements of the Commission's Rules, at reference coordinates 45-27-56 NL and 123-58-11 WL with a site restriction of 4 kilometers (2.5 miles) northwest of Netarts.⁵ We note that the hybrid community of license applications, File Nos. BPH-20070125ADO and BNPH-20060310ACD⁶ will be granted simultaneously with the release of this *Report and Order*.

4. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

5. **Ordering clauses.** Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective November 24, 2008, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Communities</u>	<u>Channel No.</u>
Butte Falls, Oregon	290A
Netarts, Oregon	232C3

6. The window period for filing applications for Channel 290A at Butte Falls and Channel 232C3 at Netarts will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

7. IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁵ The coordinates for Channel 232C3 at Netarts are located 320 kilometers from the Canadian border. As such, Canadian concurrence has been requested. The Canadian government has concurred with this allotment.

⁶ Butte Falls will not be deprived of its sole local service because this new FM station facilities are unbuilt. *See Linden, Texas et al.*, Report and Order, 16 FCC Rcd 10853 (MMB 2001) (holding that removal of unbuilt facilities does not present the same loss of service concerns as removal of a licensed station). Moreover, the grant of this application does not violate our backfill allotment policy of existing stations since the new FM station at Butte Falls is unbuilt. *See Pacific Broadcasting of Missouri, LLC*, Memorandum Opinion and Order, 18 FCC Rcd 2291 (2003), *recon denied*, Memorandum Opinion and Order, 19 FCC Rcd 10950 (2004)(stating that the backfill of a vacant allotment does not adequately cure the disruption to existing service resulting from the removal of an operating station).